

CHAPTER 6: NEGOTIATION TACTICS

Learning Objectives

At the end of this chapter you will be able to:

Primary Learning Objective

Select and apply tactics, recognize tactics used by the other party, and counter win/lose tactics used by the other party.

Classroom Learning Objective 6/1

Recognize and apply win/win tactics.

Classroom Learning Objective 6/2

Recognize appropriate times to use win/lose tactics.

Classroom Learning Objective 6/3

Recognize tactics used by the other party.

Classroom Learning Objective 6/4

Counter win/lose tactics used by the other party.

Contents and Procedures

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6.0 Introduction

Negotiation Tactics Defined

Negotiators use a variety of tactics or ploys in attempting to achieve their bargaining aims. Since most bargaining ploys are deceptive in nature, tactics usually tend to be win/lose in orientation. Accordingly, the application of win/lose tactics is generally not recommended in government contract negotiations because these tactics often facilitate win/lose outcomes.

Nevertheless, there are important reasons to study the tactics encountered most often in government contract negotiations. First, by identifying a tactic for what it really is, we can lessen the value of the tactic as a bargaining ploy that benefits the other side. Because just recognizing a tactic reduces its effectiveness, tactic identification becomes a universal countermeasure that applies to all tactics. Second, an understanding of the many different bargaining devices gives the skilled negotiator greater opportunities for success. Precise countermeasures can be applied against win/lose tactics. And finally, win/win tactics can be used to facilitate win/win bargaining objectives. In some instances, even win/lose tactics can sometimes be employed against win/lose negotiators to achieve win/win outcomes.

Although there is an endless array of different negotiation tactics, each used in many different variations, this chapter will focus on the bargaining ploys most commonly encountered in government contract negotiations and on their corresponding countermeasures. Keep in mind that any tactic can be modified or used in conjunction with other tactics, depending on the unique circumstances surrounding every bargaining session. Moreover, there are many more countermeasures than the ones listed in the text. But there is a universal countermeasure which applies to every tactic. Just by recognizing a tactic for what it really is --a bargaining ploy --reduces or eliminates its effectiveness.

6.1 Win/Lose Tactics

Introduction	<p>The following tactics are generally considered win/lose tactics because they represent bargaining ploys or ways to facilitate negotiation objectives by deceiving the other side. Because of the inherently dishonest nature of these win/lose tactics, their application is generally not recommended for negotiators seeking win/win outcomes. Nevertheless, by understanding the win/lose tactics, win/win negotiators will be better able to defend against their successful application. In addition, the employment of some win/lose tactics by win/win negotiators may sometimes be desirable when facing win/lose bargainers.</p>
Funny Money	<p><u>Description.</u> Bargainers use diversionary words and symbols to represent true monetary values during the negotiations.</p> <p><u>Purpose.</u> Funny money can hide the actual dollar amount. Monetary symbols like profit rates, indirect cost percentages, and price per pound distract attention from determining the true cost dollar value. The recipient of the tactic can be lulled into accepting amounts that are different than what would have been the case had actual dollar amounts been used instead of funny money versions. A common application of this tactic by contractors is to use profit percentages to hide the expected true dollar amount of profit.</p> <p><u>Countermeasure.</u> Translate all funny money terms to their actual monetary equivalent. For example, when negotiating profit rates, calculate the dollar value represented by the percentage.</p>
Surprise	<p><u>Description.</u> Negotiators may introduce an unexpected behavior, issue, or goal at an unexpected point in the proceedings. This tactic often invokes a non-spontaneous event to surprise or shock the other side, such as a planned emotional outburst. A good example of this tactic occurred when the Soviet Premier, Nikita Krushchev, pounded his shoe on the speaker's podium at the United Nations. Since the shoe used by Nikita for this outburst was not one of the shoes he was wearing, we can safely conclude that this surprise tactic was planned.</p> <p><u>Purpose.</u> If the other party has not anticipated the surprise, they will not have had time to formulate counter rationales or counterbalancing concessions. Consequently, the user may be able to win the objective without having to yield anything. The apparent shock or surprise is also used to elicit an emotional response from the other side that facilitates the user's objectives.</p> <p><u>Countermeasure.</u> Call a caucus or somehow delay a response. Do not respond until you are prepared. Do not get emotional or flustered.</p>
Blanketing	<p><u>Description.</u> Negotiators using this tactic ask for everything at once ("blanketing" the other side) by opening the negotiation with all their demands at once. Although this is generally a win/lose ploy, the tactic can be used in a win/win mode when the intention of the user is to be up front and open by putting all the issues on the table at the onset of negotiations.</p>

Purpose. The user of this tactic hopes that the other side will be overwhelmed with the extent of all the demands and concede on the more important issues.

Countermeasure. Before making any concessions, prioritize the issues to determine what is really essential to the other side and how important the issue is to the government.

Undermining

Description. The bargainer using this tactic attempts to put the other side on the defensive by use of threats, insults, or ultimatums. Although this win/lose tactic often backfires because most people resent verbal attacks, the tactic can sometimes be effective when used against easily intimidated negotiators.

Purpose. The negotiator using this risky tactic hopes to gain concessions by bullying the other side. Some contractor negotiators have tried to lower the confidence of the government by making negative comments about the incompetence of government personnel and their frustration with the "red tape" involved in selling to federal agencies.

Countermeasure. There are several countermeasures to this win/lose tactic:

- If the threat is unethical, unlawful, or immoral, state that you intend to report the threat to the proper authorities, such as the other side's superiors.
 - Explain the long-range risks and costs that would result if the contractor side decides to carry out the threat.
 - Play ignorant by failing to understand the threat and go on to the next issue.
 - Do not become shaken or emotional when this tactic takes the form of an insult. Insist on respect but continue to be businesslike and polite.
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Silence

Description. A party using this tactic does not say anything about a negotiation point, hoping that the issue does not come up. If the negotiation point is mentioned, the user of this tactic remains silent or avoids the topic by talking about something else.

Purpose. This tactic is generally used when negotiators do not want to disclose weaknesses in their position. For example, a contractor trying to sell unwarranted parts to the government would not want to mention the fact that the parts do not have warranties. The tactic is also used when bargainers want to obtain information by letting the other side do the talking. In this case, some negotiators feel obligated to talk and reveal information on their position when the other side is deliberately silent. Sometimes these negotiators will even end up talking themselves into accepting the other side's positions.

Countermeasure. Ask persistent and effective questions to uncover the avoided topic.

Feinting

Description. Negotiators employing this tactic use true, but misleading statements or behavior.

Purpose. Feinting gives the other side a false impression or deceives the other side into believing something that is not true. For example, a Navy contractor "feinted" by telling the government negotiator that the construction project had already begun when only some minor tree clearing had taken place. In fact, the contractor was unable to start construction because the earth-moving equipment needed was still being used on another job.

Countermeasure. Ask probing questions to determine the real situation or bring out the hidden topic.

Limited Authority

Description. Bargainers using this tactic claim they do not have the authority to negotiate a certain issue.

Purpose. Negotiating with limited authority is used to find out the limits of the other side's position without committing your side. For example, contractors will sometimes use this tactic to find out what the government will pay without stating their price, by claiming that their negotiators do not have final authority on price.

Countermeasure. Offer to negotiate with the authority figure. This tactic can even be preempted by determining at the start of negotiations if there are any limitations on the authority of the negotiator for the other side.

Apparent Withdrawal

Description. Bargainers break off negotiations with the unannounced intention of resuming bargaining later. Real-life examples of this occurred after the Arab oil embargo when some oil companies used "apparent withdrawal" because the government offer was often less than the rapidly increasing market price for oil. However, these oil companies knew they would have to resume bargaining because of a legal requirement to supply oil to the government.

Purpose. This tactic is accomplished to let the other side know how serious you are on a particular issue that is very important to your side. However, the apparent withdrawal can be a dangerous device because there is always a significant risk that the other side will not want to resume negotiations again. The best time for using this tactic is when every other attempt to move the other side on an important and vital point has been unsuccessful.

Countermeasure. Wait out the other side until they request that the bargaining session be resumed.

Deadline

Description. Negotiators establish arbitrary time limits or deadlines to force deals and make things happen. The deadline tactic is frequently used by contractors, who establish short time limits by claiming that the deal must be consummated by a certain time or conditions disadvantageous to the government,

such as price increases will become present.

Purpose. Time limits create pressure on the other side to settle. In some cases, the government side has been able to secure timely deals by imposing settlement deadlines on contractors. However, deadlines can also be used to rush one of the parties into quick and possibly unfavorable agreements. Time limits or threats of a deadline can also be used to enhance bargaining positions. Examples of arbitrary deadlines are expiration dates for contract award, dates for budget passage, or price increase dates.

Countermeasure. Be skeptical of deadlines. Generally, short time limits indicate the application of this tactic. Since deadlines are generally arbitrary and can be extended, countermeasures include:

- Bargaining for more time or for an extension
- Asking the contractor to prove the deadline is real
- Purposely missing the deadline

**Good Guy/
Bad Guy**

Description. This tactic involves role playing by members of the negotiating team. One member plays an easy-going "good guy" role while another team member role plays the hard-core or difficult "bad guy" bargainer. The "bad guy" may even take an extreme position which sometimes involves a serious threat to the other party.

Purpose. The "good guy" position is basically the same position the other team is striving for. The "good guy" attempts to convince the other side that the only alternative to the "bad guy" position is accepting the "good guy" outcome.

In some actual cases, the contracting officer played the "bad guy" and refused to budge on any issues. After the contracting officer left the bargaining session, the contractor then became eager to quickly settle with the other government negotiator role-playing the "good guy". This is the very type of win/lose bargaining ploy that the government negotiators should generally avoid.

Countermeasure. Ignore the extreme position and confine your bargaining to the "good guy" position with effective responses and points. If the "bad guy" is too disruptive, tell the other party to remove the "bad guy" or you will break off negotiations.

**Invoking Fake
Competition**

Description. Negotiators using this tactic openly and blatantly praise the benefits of false alternative choices which compete against the position of the other side.

Purpose. Referring to bogus competition can be very effective because this pressures the other side. The perception of better alternatives often causes the other side to doubt the reasonableness of their position. In some real-life instances, the contractor side has been able to invoke "bogus competition" by referring to *non-existent* higher prices paid by other customers that do not exist.

Countermeasure. Since this tactic is often used when no valid alternatives are available, question why bargaining is even taking place when the alternatives or competition are so good.

Wet Noodle

Description. Negotiators using this tactic are difficult to pin down on any issue because they give qualified or noncommittal responses.

Purpose. Users of this tactic frequently do not want to make concessions or commitments.

Countermeasure. Force a firm response from the other side before moving on to another issue.

Take it or Leave it

Description. This tactic is being used when the other side signals that agreement is expected without negotiation or any further bargaining, such as "I crossed out two items in the contract--sign here," or "My best offer is on the table and I have no room to compromise further."

Purpose. The user wants to dictate the outcome by making the other side feel they are expected to accept (or reject) the offer at face value without further negotiation.

Countermeasure. There are three effective countermeasures to this tactic. First, ignore the tactic by insisting that everything is negotiable. Indeed, even the prices of grocery items are negotiated in many countries around the world unless the buyer wants to pay more than the market price. Secondly, counter by obtaining other, non-price concessions. Finally, apply the "apparent withdrawal" tactic by ending the bargaining session and walking out.

Fait Accompli

Description: Fait accompli is presenting the other party with a completed action, insisting they have little or no choice but to accept it.

Purpose. The user hopes the other side will accept the proposal because the action has already been completed. For example, the contractor presents the government with an unsigned written contract expecting the government to sign the agreement without negotiation.

Countermeasure. Insist that everything is negotiable and that your side always intended to bargain for the issue.

Bogey

Description. Bargainers using this tactic blame their negotiating positions on third parties or situations beyond their control, such as limited funding. Any excuse in the world can be used for this tactic as long as the reasons given are beyond the control of the negotiator.

Purpose. Bargainers using the tactic may escape responsibility for their position since the "bogey" is supposedly beyond their control. Because of this lack of accountability, the tactic tends to lower expectations without getting the other side upset with the negotiator.

Countermeasure. Bogey countermeasures include:

- Stand firm and insist on your position.
- Offer to bargain with the "bogey" when the excuse is a third party.
- Counter the bogey directly, such as proposing alternative financing when limited budgets are used as the excuse.

Crunch

Description. Regardless of the generosity of the proposal, the user of this tactic is never satisfied and responds in words to the effect: "You have to do better than that," or "That is not good enough."

Purpose. This win/lose tactic often lowers expectations because the other side begins to doubt the reasonableness of their own position. The tactic may also engender appreciation when the other party feels grateful for a second chance.

Countermeasure. Keep the burden of proof on the other side by asking them to justify the crunch.

Decoy

Description. Bargainers place apparent importance on a straw issue whose outcome is really not that important to them. This technique also involves fabricating issues or blowing minor issues out of proportion, only to concede after a lengthy discussions. A variation of this tactic occurs when the contractor deliberately inflates the proposal price through detectable errors that the government can be expected to find.

Purpose. Users have the intention of trading the decoy for a concession of value. When effectively applied, this strategy enables the user to obtain a valuable concession without giving up anything important in return. For example, the contractor will pretend to grudgingly concede on the straw issue of a price estimating error, but will not make other concessions on issues important to their side.

Countermeasure. Decoy counter measures include:

- Concede the straw issue and hold out for a trade of value.
 - Call their bluff by challenging the validity of the issue.
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Legitimacy

Description. Legitimacy involves the use of commonly accepted standards, past practice, official policy, or written documents to support a bargaining position. For example, contractors often use results of prior negotiations and published price lists to confer legitimacy on their proposals.

Purpose. By conveying legitimacy on a position, the bargainer hopes to reduce or eliminate negotiations on that issue because many people are reluctant to challenge the status quo or question a position that is supported by an official document.

Countermeasure. Ignore the tactic and insist that everything is negotiable. For example, a skilled government negotiator refused to accept "official price lists" and bargained far better prices for the government.

6.2 Win/Win Tactics

Introduction	<p>The following tactics are generally win/win in nature. Since these tactics are used to facilitate win/win outcomes, countermeasures to win/win tactics are generally not appropriate. However, even win/win tactics can be abused and used as win/lose bargaining ploys by win/lose negotiators. Counters to win/lose use are listed with each tactic throughout this section.</p>
Forbearance	<p><u>Description.</u> Forbearance occurs when both sides agree to disagree and move on to the next issue without making a commitment one way or the other.</p> <p><u>Purpose.</u> When both sides disagree on an issue, using this tactic can prevent the negotiation from bogging down on areas of disagreement. Instead, the bargainers search for areas each party can agree on. Delaying agreement efforts can also give each side more time to view the unresolved issues in a different light.</p> <p><u>Counter to Win/Lose Use.</u> Offer to trade the areas of disagreement, whereby one side accepts a concession in exchange for an equal concession by the other side.</p>
Questioning	<p><u>Description.</u> This tactic involves the use of questions to move the negotiations along.</p> <p><u>Purpose.</u> The negotiator asks questions for many useful purposes, including:</p> <ul style="list-style-type: none">• Obtaining additional facts or specific information on the other side's position, such as the contractor's range for settlement.• Seeking a specific response, such as "What is the best you can do?"• Giving information by using questions that begin with "Did you consider . . .?"• Breaking impasses using questions such as, "Why...?" or "Suppose. . .?"• Assisting the other side in reaching agreement with questions such as, "When can you start work?" Such questions can often precipitate a settlement. <p>Some win/lose negotiators wanting to determine the available funding for government construction contracts have used this tactic by asking questions on resource requirements, such as "How many cubic yards of concrete are we talking about," or "How long do you think this job will take?". If the answers to these questions are forthcoming, the contractor may be able to convert quantities or job length into a good approximation of the government position.</p> <p><u>Counter to Win/Lose Use.</u> When you suspect "questioning" is stemming from the win/lose perspective, counter by either not answering the question, responding with another question, or just listening.</p>
Trial Balloon	<p><u>Description.</u> Negotiators using a trial balloon present the other side with options by prefacing offers with "what if". Without committing the user, issues are brought up for discussion politely, giving the other side refusal or acceptance options. For example, the government side might say, "How would the contractor feel about this alternative?"</p>

Purpose. Using this tactic allows each side to bounce off ideas for win/win solutions. "Trial balloons" are proposed in such a way that the other party is encouraged to offer alternative solutions.

Counter to Win/Lose Use. When in doubt about the acceptability of a trial balloon, take enough time to formulate a response. "What ifs" sometimes require time to answer and generally cannot be analyzed on the spot.

Alternative Positions

Description. Another win/win tactic is offering alternative positions at the same time during the bargaining session.

Purpose. The other side has the opportunity to select options or alternative courses of action most favorable to their position, thus minimizing any adverse consequences of not obtaining agreement on the primary position of the other party. Moreover, the selection itself gives the other side ownership in the solution.

Counter to Win/Lose Use. Spend enough time to thoroughly analyze the merits and drawbacks of every option before making your selection. Avoid accepting a false dilemma because there may be other alternatives. The pros and cons of each alternative position may not be readily apparent.

Acceptance Time

Description. Instead of forcing a quick decision, a negotiator may deliberately give the other side enough time to grasp proposals or ideas by suggesting a break in negotiations.

Purpose. Negotiators, like people in general, need time to accept something new or different.

Counter to Win/Lose Use. Do not take too much time to decide because the momentum could be lost for quick agreement. Too much time could also allow the other side to make changes to their position.

Brainstorming

Description. The negotiator using this tactic thinks out loud and openly discusses many ideas with the other side, such as possible solutions or concessions which would resolve the issues.

Purpose. When sincere in its approach, brainstorming can be a useful tactic to identify all the needs (including the hidden non-price issues and underlying needs of the other side).

Counter to Win/Lose Use. The win/lose counter is to simply say nothing and listen.

Salami

Description. The negotiator using this tactic makes demands one demand at a time (or bit by bit as when cutting salami) rather than requesting everything all at once.

Purpose. Using this tactic gives the win/win negotiator the opportunity to fully explain and sell each position before moving on to another issue. The other side does not fully realize how many demands are going to be made and,

consequently, may be more receptive to early concessions. Salami is also used by negotiators to "get a foot in the door" and try for a small piece of the action, rather than attempting to negotiate for the entire pie.

Counter to Win/Lose Use. When you suspect the other side is win/lose, the countermeasure for salami is making the other party specify all their demands before making the first concession. Refuse piecemeal settlements.

Bracketing

Description. This tactic occurs when a negotiator narrows down the issues to determine what issues are essential to the other side. Bracketing is often used as a countermeasure to the "blanketing" tactic.

Purpose. The bargainer uses bracketing to find out what the other side would be willing to take, leaving aside the unimportant or extraneous issues.

Counter to Win/Lose Use. Countermeasures include qualified or non-committal responses. Make sure the critical brackets include your issues.

6.3 Summary

Summary

Negotiation tactics are used for the purpose of obtaining bargaining objectives. Win/lose negotiation tactics are generally ploys or deceptions used to gain advantage by deceiving the other side. Accordingly, the application of win/lose tactics is generally not recommended in government contract negotiations. However, win/win tactics should be used to facilitate win/win outcomes. Win/lose tactics can even be used under exceptional circumstances against win/lose negotiators to achieve win/win outcomes.

An understanding of the most commonly used tactics found in government contract negotiations also helps the win/win negotiator successfully counter win/lose bargaining ploys. The universal countermeasure to all such tactics is simply identifying the tactic for what it really is, namely, a negotiation ploy. The recognition of win/lose tactics will reduce, if not completely eliminate, the effectiveness of the tactic as a successful negotiation device.
